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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,698	11/24/2003	Takaaki Enomoto	117341	3231

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EXAMINER

ILAN, RUTH

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/718,698	Applicant(s) ENOMOTO, TAKAAKI	
	Examiner Ruth Ilan	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6,10 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/30/05, 11/24/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

2. Applicant's election with traverse of Species I – Figure 2 in the reply filed on February 8, 2006 is acknowledged. The traversal is on the ground(s) that that the search and examination of any one species would encompass a search for any other species, and as such the search and examination can be done without a serious burden on the examiner. The Applicant further references MPEP 803 and states that “if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits,...” The Examiner is interpreting the Applicant's reference to MPEP and reference to the search as such: Because the Examiner would include the same field of search, there is no serious burden. This reasoning is not found persuasive because regarding a species election, since the claims are directed to independent inventions, restriction is proper pursuant to 35 U.S.C. 121, and it is not necessary to show a separate status in the art or separate classification (MPEP 808.01 (a)). That is separate search is not a required criterion regarding serious burden when considering species. It is the Examiner's position that the examination of three patentably distinct inventions is a serious burden. The Applicant is also directed to MPEP 806.04 which states that if “*it can be shown that two or more inventions are in fact independent, applicant should be required to restrict the*

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claims presented to but one of such independent inventions. For example...(C) Where species under a genus are independent, for example, a genus of paper clips having species differing in the manner in which a section of the wire is formed in order to achieve a greater increase in its holding power."

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 6, 10 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Objections

4. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The scope of claim 9 is broader than the scope of claim 1, in that elements recited in claim 1, for instance the second belt retractor are not required in claim 9.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in

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the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The scope of claim 9 is unclear (see 112 2nd paragraph rejection below) but it appears that claim 9 requires one belt retractor, but two belt retractor controllers. It is unclear from the specification how two belt retractor controllers would be used to control a single belt retractor. Additionally, the specification does not provide support for how a single belt retractor can be both a locking retractor and one that doesn't lock.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The scope of claim 9 is very unclear. Claim 9 depends from claim 1, but calls for the exclusion of certain elements. If one belt retractor serves as the first and second retractor, then it is unclear if there would be both a first and second belt retracting controller? It appears that the Applicant is attempting to claim a retractor that serves two functions, but has not disclosed sufficiently the manner in which such a device operates in a way which would apprise one of the scope of the device.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5, 7-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behr (US 5,558,370) in view of Yanagi (US 5,788,281) Behr teaches (Figures 3 and 4) a seat belt apparatus for a vehicle that includes a first belt retractor (14) that includes a motor and that can retract a seat belt, and also allows the seat belt to be pulled out (see for instance step 220, and col. 4, lines 13-24.) A second seat belt retractor (36) that is a pretensioner which retracts the seat belt and prohibits it from being pulled out is provided. The Examiner notes that the locking is done via the lock mechanism (34) associated with the first retractor, however, as broadly claimed, it is under the action of the second retractor that such locking occurs. Additionally, the Examiner takes Official Notice that it is old and well known to include locking mechanisms with seat belt pretensioners. It would have been obvious to one having ordinary skill in the art at the time of the invention to include a locking mechanism with the seat belt pretensioner of Behr, in order to maintain the tensioned state and protect the occupant. Further regarding claim 1, the movement state quantity threshold used to actuate the first retractor (TH1, or TH2) is lower than the movement state threshold for the pretensioner (TH3.) Behr fails to teach that the movement state detection is specifically rollover. Yanagi teaches (Figure 18) that it is known to control seat belt retraction based on rollover. This control is useful because it is important to prevent an occupant from too much movement within a compartment during a rollover event. It would have been obvious to one having ordinary skill in the art at the time of the invention to include rollover detection as the threshold parameter for Behr, in view of the teaching of Yanagi, in order to protect the occupant during a rollover event, and help

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avoid impact with the roof of the vehicle. Regarding claim 2, Behr teaches a belt pulling out permission device (see step 220, figure 3.)

11. Claims 3-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behr (US 5,558,370) in view of Yanagi (US 5,788,281) as applied to claim 1 above, and further in view of Brambilla et al.(US 2001/0054816) or Tobaru et al. (US 6,618,655 B2) Behr in view of Yanagi is discussed above, and does not teach the claimed particulars of the movement state quantity detector, in that it includes both roll rate, roll angle, and lateral acceleration. Brambilla et al. teaches that it is known to provide accurate vehicle characterization during accident events by including algorithms that use these three parameters (see paragraph [0055]) and to control seat belt retraction based on such. Tobaru et al. teaches that it is known to provide tailored occupant restraint based on roll by using a combination of these parameters (see throughout.) It would have been obvious to one having ordinary skill in the art at the time of the invention provide a movement state quantity detector that uses roll rate, roll angle and lateral acceleration with the seat belt retractor of Behr in view of Yanagi, in view of the teaching of Brambilla et al. and Tobaru et al., since Brambilla et al. and Tobaru et al. teach that such parameters are useful to accurately characterize the roll. Regarding claim 9, as best understood, Brambilla et al. teaches that it is known to provide one retractor that functions to both tighten and lock.

Conclusion

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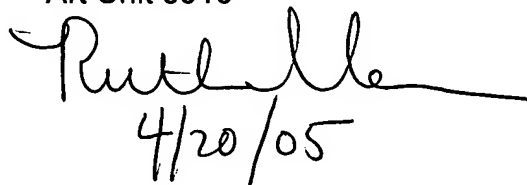
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Omura, Maekawa, White, Wier, Fujii, Kachu, Motozawa, Arima et al., Midorikawa et al., Takagi et al., Nikolov and Dixon teach seat belt retraction systems of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth Ilan
Primary Examiner
Art Unit 3616



4/20/05

RI
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